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PART III.

Legislative Measures and Rules thereunder.

NOTIFICATION.

No. 356—L. C., dated 14th April 1916.

Under Rule 32 of the Rules for the conduct of business of the Mysore Legislative Council, the following Bill to amend the law relating to Arbitration is published for general information with a Statement of Objects and Reasons.

By Order,
G. SREENIVASA IYER,
Secretary Mysore Legislative Council.

A Bill to amend the law relating to Arbitration.

Whereas it is expedient to amend the law relating to arbitration by agreement without the intervention of a Court of Justice; His Highness the Maharaja is pleased to enact as follows:—

Short title, extent and commencement.

1. (1) This Regulation may be called the Mysore Arbitration Regulation.

(2) It extends to the whole of Mysore; and

(3) It shall come into force on the first day of

Application.

2. This Regulation shall apply to such areas and from such date as may be notified by Government in the official Gazette in this behalf.

Exclusion of certain enactments in certain cases where Regulation applies.

3. The last thirty-seven words of Section 21 of the Specific Relief Act, 1877, and Section 89 and the second schedule of the Code of Civil Procedure, 1911, shall not apply to any submission or arbitration to which the provisions of this Regulation for the time being apply:

Provided that nothing in this Regulation shall affect any arbitration pending in any local area at the date of the application thereto of this Regulation as aforesaid, but shall apply to every arbitration commenced after the date of the application of this Regulation, under any agreement or order previously made.

Definitions.

4. In this Regulation, unless there is anything repugnant in the subject or context,—

(*a*) "the Court" means, the Court of the District Judge; and

(*b*) "submission" means a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not.

Submission to be irrevocable except by leave of Court.

5. A submission, unless a different intention is expressed therein, shall be irrevocable, except by leave of the Court.

Provisions implied in submissions.

6. A submission, unless a different intention is expressed therein, shall be deemed to include the provisions set forth in the first schedule, in so far as they are applicable to the reference under submission.

Reference to arbitrator to be appointed by third person.

7. The parties to a submission may agree that the reference shall be to an arbitrator or arbitrators to be appointed by a person designated therein.

Such person may be designated either by name or as the holder for the time being of any office or appointment.

Illustration.

The parties to a submission may agree that any dispute arising between them in respect of the subject-matter of the submission shall be referred to an arbitrator to be appointed by a particular Chamber of Commerce, or, as the case may be, to an arbitrator to be appointed by the President for the time being of a particular Chamber of Commerce.

Power for the Court in certain cases to appoint an arbitrator, umpire or third arbitrator.

8. (1) In any of the following cases:—

(*a*) where a submission provides that the reference shall be to a single arbitrator, and all the parties do not, after differences have arisen, concur in the appointment of an arbitrator;

(*b*) if an appointed arbitrator neglects or refuses to act, or is incapable of acting, or dies, or is removed, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties do not supply the vacancy;

(*c*) where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator and do not appoint him;

(*d*) where an appointed umpire or third arbitrator refuses to act; or is incapable of acting, or dies, or is removed, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties or arbitrators do not supply the vacancy;

any party may serve the other parties or the arbitrators, as the case may be, with a written notice to concur in appointing an arbitrator, umpire or third arbitrator.

(2) If the appointment is not made within seven clear days after the service of the notice, the Court may, on application by the party who gave the notice, and after giving the other party an opportunity of being heard, appoint an arbitrator, umpire or third arbitrator, who shall have the like power to act in the reference and make an award as if he had been appointed by consent of all parties.

Power for parties in certain cases to supply vacancy.

9. Where a submission provides that the reference shall be to two arbitrators one to be appointed by each party, then, unless a different intention is expressed therein,—

(*a*) if either of the appointed arbitrators refuses to act, or is incapable of acting, or dies or is removed, the party who appointed him may appoint a new arbitrator in his place;

(*b*) if, on such a reference, one party fails to appoint an arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his arbitrator, has served the

party making default with a written notice to make the appointment, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and his award shall be binding on both parties as if he had been appointed by consent :

Provided that the Court may set aside any appointment made in pursuance of clause (*b*) of this section.

Powers of arbitrator.

10. The arbitrators or umpire acting under a submission shall, unless a different intention is expressed therein,—

(*a*) have power to administer oaths to the parties and witnesses appearing ;

(*b*) have power to state a special case for the opinion of the Court on any question of law involved ; and

(*c*) have power to correct in an award any clerical mistake or error arising from any accidental slip or omission.

Award to be signed and filed.

11. (1) When the arbitrators or umpire have made their award, they shall sign it and shall give notice to the parties of the making and signing thereof and of the amount of the fees and charges payable to the arbitrators or umpire in respect of the arbitration and award.

(2) The arbitrators or umpire shall, at the request of any party to the submission or any person claiming under him, and upon payment of the fees and charges due in respect of the arbitration and award, and of the costs and charges of filing the award, cause the award, or a signed copy of it, to be filed in the Court ; and notice of the filing shall be given to the parties by the arbitrators or umpire.

(3) Where the arbitrators or umpire state a special case under Section 10, clause (*b*), the Court shall deliver its opinion thereon ; and such opinion shall be added to, and shall form part of, the award.

Power for Court to enlarge time for making award.

12. The time for making an award may, from time to time, be enlarged by order of the Court, whether the time for making the award has expired or not.

Power to remit award.

13. (1) The Court may, from time to time, remit the award to the reconsideration of the arbitrators or umpire.

(2) Where an award is remitted under sub-section (1), the arbitrators or umpire shall, unless the Court otherwise directs, make a fresh award within three months after the date of the order remitting the award.

Power to set aside award.

14. Where an arbitrator or umpire has misconducted himself, or an arbitration or award has been improperly procured, the Court may set aside the award.

Award when filed to be enforceable as a decree.

15. (1) An award on a submission, on being filed in the Court in accordance with the foregoing provisions, shall (unless the Court remits it to the reconsideration of the arbitrators or umpire, or sets it aside) be enforceable as if it were a decree of the Court.

(2) An award may be conditional or in the alternative.

Illustration.

A dispute concerning the ownership of a diamond ring is referred to arbitration. The award may direct that the party in possession shall pay the other party Rs. 1,000, the said sum to be reduced to Rs. 5 if the ring is returned within fourteen days.

Power to remove arbitrator or umpire.

16. Where an arbitrator or umpire has misconducted himself, the Court may remove him.

Costs.

17. Any order made by the Court under this Regulation may be made on such terms as to costs or otherwise as the Court thinks fit.

Forms.

18. The forms set forth in the second schedule, or forms similar thereto, with such variations as the circumstances of each case require, may be used for the respective purposes there mentioned, and, if used, shall not be called in question.

Power to stay proceedings where there is a submission.

19. Where any party to a submission to which this Regulation applies, or any persons claiming under him, commences any legal proceedings against any other party to the submission, or any person claiming under him, in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time after appearance and before filing a written statement or taking any other steps in the proceedings, apply to the Court to stay the proceedings; and the Court, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceedings.

Power for Chief Court to make rules.

20. The Chief Court may make rules consistent with this Regulation as to—

(*a*) the filing of awards and all proceedings consequent thereon or incidental thereto;

(*b*) the filing and hearing of special cases and all proceedings consequent thereon or incidental thereto;

(*c*) the staying of any suit or proceeding in contravention of a submission to arbitration; and,

(*d*) generally, all proceeding in Court under this Regulation.

Amendment of section 21, Act I, 1877.

21. In section 21 of the Specific Relief Act, 1877, after the words "Code of Civil Procedure" the words and figures "and the Mysore Arbitration Regulation," shall be inserted, and for the words "a controversy" the words "present or future differences" shall be substituted.

Government to be bound.

22. The provisions of this Regulation shall be binding on the Government.

THE FIRST SCHEDULE.

(SEE SECTION 6.)

Provisions to be implied in submissions.

I. If no other mode of reference is provided, the reference shall be to a single arbitrator.

II. If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

III. The arbitrators shall make their award in writting within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later day to which the arbitrators, by any writing signed by them, may, from time to time, enlarge the time for making the award.

IV. If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

V. The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire, by any writing signed by him, may, from time to time, enlarge the time for making his award.

VI. The parties to the reference, and all persons claiming through them, respectively, shall, subject to the provisions of any law for the time being in force, submit to be examined by the arbitrators or umpire on oath or affirmation in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire, all books, deeds, papers, accounts, writings and documents within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the arbitrators or umpire may require.

VII. The witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath.

VIII. The award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively.